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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,595	03/16/2004	Zhong Sheng Chen	USP2086A-ZSC	3882
30265	7590	02/03/2006	EXAMINER	
RAYMOND Y. CHAN			RUNNING, RACHEL A	
108 N. YNEZ AVE., SUITE 128			ART UNIT	
MONTEREY PARK, CA 91754			PAPER NUMBER	

3732

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

58

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/802,595	CHEN, ZHONG SHENG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rachel A. Running	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 11-14, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jobson (U.S. Patent No. 302,734) in view of Chiraello (U.S. Patent No. 2,185,050). Jobson discloses a comb having a handle (A') (column 1, lines 25-27), a guiding portion (A' and E), a plurality of combing teeth (B') (column 1, lines 27-28) wherein the combing teeth have a plurality of guiding through slots and are tapered towards the end, and where the combing teeth (D and B) are perpendicularly extended from the bottom edge of the guiding wall (A) to form an L-shaped structure (column 2, lines 90-94). See Figures 1 and 2. Chiraello teaches a comb with a plurality of brush members upwardly extending from the combing tooth wherein the brush members are of a predetermined height and they gradually reduce heights at a direction from an inner end to the outer end. it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the L-shaped comb of Jobson add a plurality of brush members that extend upward from the combing teeth as taught by Chiraello in order to create a comb brush that allows the user to comb and brush one's hair in one

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operation and where the bristles will not interfere with the combing operation nor will the teeth of the comb interfere with the use of the device as a brush.

3. Claims 2, 4, 6, 7, 10, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jobson (U.S. Patent No. 302,734) in view of Chiraello (U.S. Patent No. 2,185,050) and Fuentes (U.S. Patent No. 2,106,637). The combination of Jobson and Chiraello discloses the claimed invention except for the combing teeth having a predetermined length in such a matter to create a curved contacting line. Fuentes teaches a combing brush in which ends of the combing teeth have a predetermined length in such a matter to create a curved contacting line. It would have been obvious to one of ordinary skill in the art to take comb of Jobson and gradually increase the combing teeth at the direction from the middle of the guiding wall to the two ends to create a curved contacting line as taught by Fuentes, in order make the comb fit to the curvature of a person's head.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jobson in view of Chiraello and Fuentes as applied to claim 1 and in further view of Hope (U.S. Patent 1,370,649). Jobson as modified by Chiraello and Fuentes discloses the claimed invention except the plurality of additional combing teeth transversely extended along the bottom edge of the guiding wall at a direction opposed to the combing teeth and a plurality of additional brush members upwardly extended along each of the additional combing teeth. Hope teaches a combined comb and brush that has a mirror image of the brush displayed on both sides of the guiding wall. See Figures 3 and 4. Therefore, it would have been obvious at the time the invention was made to take the comb of

Jobson as modified by Chiraello and Fuentes and make the plurality of additional combing teeth transversely extended along the bottom edge of the guiding wall at a direction opposed to the combing teeth and a plurality of additional brush member upwardly extended along each of the additional combing teeth in thus creating a mirror image of the opposed side as taught by Hope in order to brush and comb the hair with either hand.

***Allowable Subject Matter***

5. Claims 11-14, 17, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments, see page 9, section (b), filed November 22, 2005, with respect to the 102(b) rejection have been fully considered and are persuasive. The 102(b) rejection of claims 1, 3, 5, 8, 9 and 11 has been withdrawn.

7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

8. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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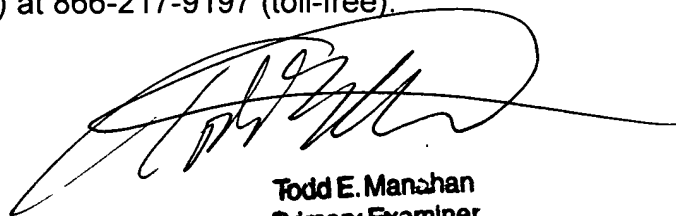
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571) 272-1917. The examiner can normally be reached on Monday-Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAR  
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Todd E. Manahan  
Primary Examiner